
**Criminal Justice & Corrections
Committee**

HB 1295

Brief Description: Decriminalizing "fine only" criminal statutes.

Sponsors: Representatives Lovick, Priest, Williams, Wood and Chase.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Changes several misdemeanor crimes to civil infractions.
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Hearing Date: 2/1/05

Staff: Erik Van Hagen (786-5793).

Background:

I. Public or Common Nuisances

A public nuisance (otherwise known as a common nuisance) is a nuisance that affects an entire community or neighborhood. What constitutes a public nuisance is governed by the common law and by statute. Examples of public nuisances include causing the carcass of any animal to be deposited in any place to the prejudice of others, obstructing or impeding the passage of any river without legal authority, establishing powder magazines near incorporated cities or towns at a point different from that appointed by the city or town (or within 50 rods of any occupied dwelling house), and using any building for the exercise of any trade, which, by occasioning obnoxious exhalations, is offensive or dangerous to the health of individuals or of the public.

If a person is convicted of erecting, causing, or contriving a public or common nuisance, he or she must be punished by a fine not exceeding \$1,000 if no other punishment is specially provided.

II. Alcohol Servers

A person who sells alcohol for consumption at an on-premise retail licensed facility as a regular requirement of his or her employment must have a permit issued by an entity that has been certified by the Liquor Control Board (Board). Some alcohol servers must view a video training session for designed by the Board for alcohol servers. The Board may adopt rules to implement the alcohol server permitting program.

Violation of the statutes and rules dealing with alcohol servers is a misdemeanor. A first violation is punishable by a fine of not more than \$250. A subsequent violation is punishable by a fine of not more than \$500, imprisonment for not more than 90 days, or both.

III. Vessel Registration

Most vessels (watercraft capable of being used as a means of transportation on the water other than seaplanes) must be registered. A vessel that is required to register (other than certain vessels of the United States) must have a registration number and a decal in order to operate on the waters of the state. The Department of Licensing (DOL) may adopt rules to implement the vessel registration statutes.

A violation of the vessel registration statutes or the DOL rules is a misdemeanor. A first violation is punishable by a fine not to exceed \$100 per vessel. A second violation within one year is punishable by a fine not to exceed \$200 per vessel. A third (or subsequent) violation within one year is punishable by a fine not to exceed \$400 per vessel.

IV. Misdemeanors compared to civil infractions

The primary difference between fine only misdemeanors and civil infractions relates to the constitutional requirements of due process. Among other things, criminal defendants are constitutionally entitled to a jury trial and attorney, while civil defendants are not. Civil defendants may have default judgments entered against them for failing to appear, while criminal defendants may not.

Summary of Bill:

Violations of statutes relating to public nuisances are decriminalized. Misdemeanors for violations of statutes and administrative rules relating to vessel registration are decriminalized. Misdemeanors for first time violations of statutes and administrative rules relating to alcohol servers are decriminalized. The misdemeanors are converted to civil infractions, which are non-criminal in nature. Second offenses of statutes and administrative rules relating to alcohol servers remain misdemeanors.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.